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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

CISCO SYSTEMS, INC.,

Plaintiff,

vs.

ARISTA NETWORKS, INC.,

Defendant.

CASE NO. 5:14-cv-5344-BLF (PSG)

**DECLARATION OF SARA E. JENKINS  
IN SUPPORT OF ARISTA NETWORKS,  
INC.'S ADMINISTRATIVE MOTION TO  
FILE UNDER SEAL CONFIDENTIAL  
INFORMATION IN ARISTA  
NETWORKS, INC.'S MOTION TO  
STRIKE**

**DEMAND FOR JURY TRIAL**

**DECLARATION OF SARA E. JENKINS**

I, Sara E. Jenkins, declare as follows:

1. I am an attorney licensed to practice in the State of California and am admitted to practice before this Court. I am an associate with the law firm Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Plaintiff Cisco Systems, Inc. (“Cisco”). I have personal knowledge of the matters set forth in this Declaration, and if called as a witness I would testify competently to those matters.

2. I make this declaration in support of Arista’s Administrative Motion to File Under Seal Confidential Information (Dkt. 304) in connection with Arista’s Arista’s Motion to Strike Late Contentions or Alternatively to Continue Case Schedule (“Arista’s Brief”). I make this declaration in accordance with Civil Local Rule 79-5(e) on behalf of Cisco to confirm that the information contained in the documents referenced in the Sealing Motion should be sealed.

3. Arista’s Brief is non-dispositive. In this context, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamkana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1138 (9th Cir. 2003)). In addition, Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” ( *i.e.*, that the document is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

4. Pursuant to Civil L.R. 79-5(e), good cause exists to seal the documents identified in the Sealing Motion, also set forth below, because the information sought to be sealed reflects confidential information that “give[s] [Cisco] an opportunity to obtain an advantage over competitors who do not know or use it.” *In re Elec. Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008) (quoting *Restatement of Torts* § 757, cmt b).:

02099-00004/8078837.1

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<b>Document</b>	<b>Portions to Be Filed Under Seal</b>
Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Highlighted portions
Exhibit 7 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Highlighted portions
Exhibit 8 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Entire
Exhibit 9 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Entire
Exhibit 10 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Entire
Exhibit 11 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Entire
Exhibit 12 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Highlighted portions
Exhibit 16 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Highlighted portions
Exhibit 17 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Entire
Exhibit 18 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Entire
Exhibit 19 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Highlighted portions
Exhibit 20 to the Declaration of Eduardo E. Santacana in Support of Arista's Motion to Strike Late Contentions or Alternatively to Continue Case Schedule	Entire

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DECLARATION OF SARA E. JENKINS IN SUPPORT OF ARISTA NETWORKS, INC.'S  
ADMINISTRATIVE MOTION TO FILE UNDER SEAL  
Case No. 5:14-cv-05344-BLF (PSG)

1           5.       Exhibit 7 is Cisco's Supplemental Responses to Arista's Interrogatories 2-10. The  
2 highlighted portions of this document were designated as "Highly Confidential – Attorneys' Eyes  
3 Only" and "Highly Confidential – Source Code" under the Protective Order in this matter.  
4 Exhibit 7 comprises Cisco's confidential business information regarding, *inter alia*, Cisco's  
5 software and source code. Maintaining this information as confidential provides Cisco with an  
6 "opportunity to obtain an advantage over competitors" who may compete with Cisco. *Elec. Arts*,  
7 298 F. App'x at 569. Moreover, disclosing this information to Cisco's competitors would harm  
8 Cisco's business by, *inter alia*, allowing Cisco's competitors to learn of Cisco's confidential  
9 technology and technological advances and allowing others to copy or adopt confidential aspects  
10 of Cisco's products. This would "harm [Cisco's] competitive standing." *Nixon v. Warner*  
11 *Commc'ns, Inc.*, 435 U.S. 589, 598 (1978).

12           6.       Exhibit 8 is an exhibit to Cisco's Supplemental Responses to Arista's Interrogatory  
13 2. It was designated as "Highly Confidential – Source Code" under the Protective Order in this  
14 matter. Exhibit 8 comprises Cisco's confidential business information regarding, *inter alia*,  
15 Cisco's software and source code. Maintaining this information as confidential provides Cisco  
16 with an "opportunity to obtain an advantage over competitors" who may compete with Cisco.  
17 *Elec. Arts*, 298 F. App'x at 569. Moreover, disclosing this information to Cisco's competitors  
18 would harm Cisco's business by, *inter alia*, allowing Cisco's competitors to learn of Cisco's  
19 confidential technology and technological advances and allowing others to copy or adopt  
20 confidential aspects of Cisco's products. This would "harm [Cisco's] competitive standing."  
21 *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978).

22           7.       Exhibit 9 is an exhibit to Cisco's Supplemental Responses to Arista's Interrogatory  
23 2. It was designated as "Highly Confidential – Source Code" under the Protective Order in this  
24 matter. Exhibit 9 comprises Cisco's confidential business information regarding, *inter alia*,  
25 Cisco's software and source code. Maintaining this information as confidential provides Cisco  
26 with an "opportunity to obtain an advantage over competitors" who may compete with Cisco.

1 *Elec. Arts*, 298 F. App'x at 569. Moreover, disclosing this information to Cisco's competitors  
2 would harm Cisco's business by, *inter alia*, allowing Cisco's competitors to learn of Cisco's  
3 confidential technology and technological advances and allowing others to copy or adopt  
4 confidential aspects of Cisco's products. This would "harm [Cisco's] competitive standing."  
5 *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978).

6 8. Exhibit 10 is a copy portions of the expert report of Kevin Almeroth and was  
7 designated as "Highly Confidential – Attorneys' Eyes Only Information" and "Highly  
8 Confidential – Source Code" under the Protective Order. Exhibit 10 contains Cisco's confidential  
9 business information regarding, *inter alia*, Cisco's software and source code. Maintaining this  
10 information as confidential provides Cisco with an "opportunity to obtain an advantage over  
11 competitors" who may compete with Cisco. *Elec. Arts*, 298 F. App'x at 569. Moreover,  
12 disclosing this information to Cisco's competitors would harm Cisco's business by, *inter alia*,  
13 allowing Cisco's competitors to learn of Cisco's confidential technology and technological  
14 advances and allowing others to copy or adopt confidential aspects of Cisco's products. This  
15 would "harm [Cisco's] competitive standing." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589,  
16 598 (1978).

17 9. Exhibit 11 is an exhibit to Cisco's Supplemental Responses to Arista's  
18 Interrogatory 2. It was designated as "Highly Confidential – Source Code" under the Protective  
19 Order in this matter. Exhibit 11 comprises Cisco's confidential business information regarding,  
20 *inter alia*, Cisco's software and source code. Maintaining this information as confidential  
21 provides Cisco with an "opportunity to obtain an advantage over competitors" who may compete  
22 with Cisco. *Elec. Arts*, 298 F. App'x at 569. Moreover, disclosing this information to Cisco's  
23 competitors would harm Cisco's business by, *inter alia*, allowing Cisco's competitors to learn of  
24 Cisco's confidential technology and technological advances and allowing others to copy or adopt  
25 confidential aspects of Cisco's products. This would "harm [Cisco's] competitive standing."  
26 *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978).

1           10.     Exhibit 12 is Cisco's Supplemental Responses to Arista's Interrogatories 20. The  
2 highlighted portions of this document were designated as "Highly Confidential – Attorneys' Eyes  
3 Only" under the Protective Order in this matter. Exhibit 12 comprises Cisco's confidential  
4 business information regarding, *inter alia*, competition, strategies and competitive intelligence.  
5 Maintaining this information as confidential provides Cisco with an "opportunity to obtain an  
6 advantage over competitors" who may compete with Cisco and gather information regarding the  
7 same less optimally than Cisco. *Elec. Arts*, 298 F. App'x at 569. Moreover, disclosing this  
8 information to Cisco's competitors would harm Cisco's business by, *inter alia*, allowing Cisco's  
9 competitors to learn of Cisco's strategies for making sales and for gathering information in  
10 furtherance of the same, and allowing competitors to in turn adopt and/or counteract Cisco's  
11 strategies. This would "harm [Cisco's] competitive standing." *Nixon*, 435 U.S. at 598.

12           11.     Exhibits 16 and 17 are Cisco's Supplemental Response to Arista's Interrogatory 15  
13 and exhibit thereto. The highlighted portion of Exhibit 16 and all of Exhibit 17 are designated as  
14 "Highly Confidential – Attorneys' Eyes Only Information." Exhibits 16 and 17 comprise Cisco's  
15 confidential business information regarding, *inter alia*, Cisco's customers and competition and  
16 related strategies. Maintaining this information as confidential provides Cisco with an  
17 "opportunity to obtain an advantage over competitors" who may compete with Cisco and gather  
18 information regarding the same less optimally than Cisco. *Elec. Arts*, 298 F. App'x at 569.  
19 Moreover, disclosing this information to Cisco's competitors would harm Cisco's business by,  
20 *inter alia*, allowing Cisco's competitors to learn of Cisco's strategies for making sales and for  
21 gathering information in furtherance of the same, and allowing competitors to in turn adopt and/or  
22 counteract Cisco's strategies. This would "harm [Cisco's] competitive standing." *Nixon v.*  
23 *Warner Commc'ns, Inc.*, 435 U.S. 589, 598 (1978).

24           12.     Exhibit 18 is an excerpt of the deposition testimony of Frank Palumbo and has been  
25 designated as "Highly Confidential – Attorneys' Eyes Only" under the Protective Order. Exhibit  
26 18 comprises Cisco's confidential business information regarding, *inter alia*, customers, accounts,

1 and competition. Maintaining this information as confidential provides Cisco with an  
2 “opportunity to obtain an advantage over competitors” who may compete with Cisco and engage  
3 in marketing and sales less optimally than Cisco. *Elec. Arts*, 298 F. App’x at 569. Moreover,  
4 disclosing this information to Cisco’s competitors would harm Cisco’s business by, *inter alia*,  
5 allowing Cisco’s competitors to learn the identity of Cisco’s customers and allowing competitors  
6 to in turn target Cisco’s customers and adopt and/or counteract Cisco’s strategies. This would  
7 “harm [Cisco’s] competitive standing.” *Nixon*, 435 U.S. at 598.

8       13. Exhibits 19 and 20 are Cisco’s Supplemental Response to Arista’s Interrogatory 15  
9 and exhibit thereto. The highlighted portion of Exhibit 19 and all of Exhibit 20 are designated as  
10 “Highly Confidential – Attorneys’ Eyes Only Information.” Exhibits 16 and 17 comprise Cisco’s  
11 confidential business information regarding, *inter alia*, Cisco’s customers and competition and  
12 related strategies. Maintaining this information as confidential provides Cisco with an  
13 “opportunity to obtain an advantage over competitors” who may compete with Cisco and gather  
14 information regarding the same less optimally than Cisco. *Elec. Arts*, 298 F. App’x at 569.  
15 Moreover, disclosing this information to Cisco’s competitors would harm Cisco’s business by,  
16 *inter alia*, allowing Cisco’s competitors to learn of Cisco’s strategies for making sales and for  
17 gathering information in furtherance of the same, and allowing competitors to in turn adopt and/or  
18 counteract Cisco’s strategies. This would “harm [Cisco’s] competitive standing.” *Nixon v.*  
19 *Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

20       14. The portions of Arista’s Brief to be sealed discuss Cisco’s confidential information  
21 from the above exhibits regarding Cisco’s competitive strategies, source code, and confidential  
22 technology. Thus, these portions similarly comprise Cisco’s confidential business information,  
23 the confidentiality of which provides Cisco an “opportunity to obtain an advantage over  
24 competitors,” and which would harm Cisco’s business if disclosed to Cisco’s competitors. *Elec.*  
25 *Arts*, 298 F. App’x at 569.

1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct, and that this declaration was executed in Redwood Shores,  
3 California, on June 17, 2016.

4  
5 /s/ Sara E. Jenkins  
6 Sara E. Jenkins  
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